

MONTANA LEGISLATIVE HISTORY

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Chapter 316 19 81

Bill H _____ S 84 Original bill & history c

H. Committee on Local Govt

Hearing Date(s) Mar 14 ✓ c

Mar 26 ✓ c

_____ c

_____ c

Date Out Mar 27 ✓ c

S. Committee on Local Govt

Hearing Date(s) Jan 20 ✓ c

Feb 18 ✓ c

_____ c

_____ c

Feb 18 ✓ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

REPORT: 1/19, DO PASS AS AMENDED
2ND READING: 1/21, DO PASS
3RD READING: 1/24, YEAS: 46; NAYS: 0

TRANSMITTED TO HOUSE: 1/24
REFERRED TO COMMITTEE ON JUDICIARY: 1/24

HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN, AS AMENDED
ON MOTION, 3/5, PASSED FOR THE DAY.
2ND READING: 3/6, YEAS: 44; NAYS: 40
ON MOTION, 3/7, REFERRED TO COMMITTEE ON JUDICIARY
REPORT: 3/13, BE CONCURRED IN, AS AMENDED
2ND READING: 3/18, YEAS: 81; NAYS: 6
3RD READING: 3/20, YEAS: 86; NAYS: 7

RETURNED TO SENATE WITH AMENDMENTS: 3/20
2ND READING: 3/24, BE CONCURRED IN
3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81
ACTION: 4/2, SIGNED
CHAPTER 239

SB 84 -- B. BROWN -- AMENDING 3-5-602 TO INCREASE THE SALARY OF DISTRICT COURT REPORTERS.

FISCAL NOTE: REQUIRED
INTRODUCED: 1/9
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/9
HEARING: 1/20
REPORT: 2/20, DO PASS AS AMENDED
2ND READING: 2/23, DO PASS
3RD READING: 2/25, YEAS: 47; NAYS: 2

TRANSMITTED TO HOUSE: 2/25
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/2
HEARING: 3/14
REPORT: 3/27, BE CONCURRED IN
2ND READING: 3/28, YEAS: 61; NAYS: 15
3RD READING: 3/31, YEAS: 84; NAYS: 15

RETURNED TO SENATE: 3/31

TRANSMITTED TO GOVERNOR: 4/8/81
ACTION: 4/10, SIGNED
CHAPTER 316

SB 85 -- DOVER -- EXEMPTING NONPROFIT ORGANIZATIONS FROM RESTRICTIONS.

INTRODUCED: 1/9
REFERRED TO COMMITTEE ON TAXATION: 1/9
HEARING: 1/21
REPORT: 2/11, DO PASS AS AMENDED
2ND READING: 2/13, YEAS: 27; NAYS: 18
3RD READING: 2/16, YEAS: 38; NAYS: 8

TRANSMITTED TO HOUSE: 2/16
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 2/17
HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN, AS AMENDED
2ND READING: 3/9, YEAS: 73; NAYS: 0

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 20, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 20, 1981 at 1:15 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with Senator Story being excused.

Several visitors were in attendance. (See Attachment)

Chairman McCallum reported to the committee that Senator Story has asked to be taken off the Local Government Committee. Senator Story feels he has an overload of work with the Finance and Claims Committee and the State Administration Committee. Senator Hammond would take his place.

Chairman McCallum then called on Senator Severson, at request, to ask the committee to consider introducing a bill presented to him by the Montana Surveyors. The bill would amend the Montana Subdivision and Platting Act to provide for an extension of preliminary plat approval. The extension would be to 5 years instead of 1 year if there is a specific written condition of the written agreement entered into between the governing body and the subdivider. Deborah Schmidt of the Legislative Council will research this matter.

CONSIDERATION OF SENATE BILL NO. 84: Senator Bob Brown of Senate District No. 10 and sponsor of the bill said the maximum salary for court reporters was increased in 1979 from \$16,000 to \$18,000 and the minimum was increased in 1975 up to \$12,500 and has not been increased since. The reporters would now like an increase of the maximum to \$27,500 and an increase of the minimum to \$16,000. Senator Brown then introduced Bob Nieboer from Kalispell as spokesman for the court reporters.

Bob Nieboer spoke in favor of Senate Bill No. 84. He said that in 1975 the Legislature established a salary for district court reporters. That was the first time there was a minimum or maximum, before that it was a straight salary the district judge set. In 1977 a bill was presented for an increase. In 1979 the maximum was increased to \$18,000 and the minimum remained the same. This was a 2% increase per year in salary. In 1981 the district court reporter's salary was a little over 60% of the district judge's salary. Today their salary would have to be between \$23,000 and \$24,000 if they received 60% of the judge's salary. The average salary of reporters in surrounding states runs between \$20,000 and \$26,500 for a maximum. That is the salary they are receiving now and many states are going to call their legislature this session to ask for increases, also. He thought up until two years ago Montana was staying comparable to other

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states but now it is decreasing. The reporters' workload has increased tremendously. They are spending more and more time in court and have less time to process the transcripts. In Kalispell he is falling way behind in the transcripts on appeal. When giving dictation for transcripts, they sometimes have to work nights and weekends. Court reporting is difficult to try to explain, some judges and lawyers do not fully understand it. There is a great deal of pressure in the job. They are required to record every word that is spoken and at times this is extremely difficult. Technical terms are becoming more common in trials and the reporter has to keep up on all these terms. Often there are seminars on maintaining quality writing for court reporters. If they wish to go to these seminars, they must go on their own time and at their own expense. He feels there is not much income involved in appeals due to all the time they spend dictating their notes and paying their secretaries. If this bill would pass as it is now, he is sure very few judges would reward the \$27,500 maximum. Most reporters now are receiving the maximum. The judge has discretion to set the salary.

Doris Shepherd of the Montana Association of Counties said the association has no objection to a salary increase for the court reporters; however, in view of Senate Bill No. 50 which requests a \$14,000 base for elected officials, they would like this bill to be amended to have the district court reporters' salaries begin with the \$14,000 base and not exceed \$20,000.

No further proponents of this bill appeared before the committee. Senator McCallum then called for opponents of Senate Bill No. 84.

Representative Pistoria, opponent of the bill, said in the last legislative session court reporters had House Bill No. 44 and he supported it all the way. He thought the reporters needed a raise and especially the minimum amount raised. He stated if he knew then what he knows today that he would have taken a different view of it. He mentioned that Senate Bill No. 175, introduced in this session, would raise another portion of the reporters' salary. He feels the two salaries should be incorporated in some way. When they are taking depositions or writing up transcripts on appeal, they are getting the salary from the county and, due to a provision of the law, they also receive 7.5 cents per folio or 22.5 cents per page. They are asking to raise this, along with the salary, from 7.5 cents to 17 cents or 51 cents per page. He said he was recently involved in making an appeal to the court and had to pay \$1345. The reporter did this at the taxpayers' expense while at the office Representative Pistoria said some court reporters are making more than the district judges. He said in Great Falls they ha

a "closed corporation" whereby 3 or 4 qualified reporters the area are not allowed to be called upon to do any court reporting. In Great Falls there are 4 court reporters in closed corporation. In one case in Great Falls a court received approximately \$8,000 which the county had to pay. this were raised to the 51 cents per page the cost would be over \$11,000. He feels everyone should know about the two salaries.

Senator Brown said he feels the court reporter has a very important job. He suggested the committee listen to remarks from Mr. Nieboer.

Mr. Nieboer said, in regard to the Montana Associatic Counties' suggestion on the \$14,000 base, that some district courts handle cases in as many as 7 different counties. To work for the district judge and in many cases he has more than 1 county so he does not feel the \$14,000 should apply to all court reporters. He also said that the county does not offset their costs for typists, dictation machines, typewriters, paper, carbon and often times an office. Last year he actually showed a loss on his tax return. He said as far as the clerk shop order, when you are taking a deposition, any reporter can come in and do this.

There being no further proponents or opponents, Chairman McCallum asked for questions from the committee.

Senator O'Hara stated that last time they went over the bill no one would venture a figure on income regarding the issue. He also said some attorneys are quite dissatisfied with the court reporters and the way they handle things. They say they are also very expensive.

Mr. Nieboer said he hoped that was a general criticism of some reporters and not a criticism of the whole. In his opinion he has no problems with attorneys. They have a very good working relationship with the local bar. He hates to hear that some attorneys are dissatisfied with the court reporter.

Senator Van Valkenburg directed a question to either Senator Brown or Mr. Nieboer. He asked why, on page 2, line 1, they strike the word "travel" from the bill. He said it was added in the last session because of the concern to keep judicial employees and judges on the same schedule of travel reimbursement as all other public employees.

Mr. Nieboer answered that the change to \$16,000 was only change the reporters requested. One reviewing agency proposed the other changes. If the committee would want to leave off the extra wording, he would agree to that. It was not the court reporters' change. The bill drafter though needed it.

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Senator Van Valkenburg then asked Mr. Nieboer how he calculated the average yearly increase to be slightly more than 2% since 1975. In 1973 the Legislature increased the salary to \$12,500. Assuming most are now making the maximum of \$18,000, that is a \$5,500 increase since 1975 and comes out to be an increase of 44% or 7.3% per year.

Mr. Nieboer said he took \$16,000 in 1975 and ran that to 1981 and came up with a 2% increase. He still feels that is extremely low with today's inflation.

Senator O'Hara said he finds it hard to understand how Mr. Nieboer could have suffered a loss last year.

Mr. Nieboer said this was purely tax-wise. He shows a loss on his income tax forms due to all his write-offs for expenses.

Senator O'Hara then asked Mr. Nieboer if he was overpaid what was the problem with hiring more court reporters.

Mr. Nieboer answered that each judge is entitled to have an official reporter.

Senator Ochsner asked Mr. Nieboer if he did a lot of extra work for people other than the district judge.

Mr. Nieboer said the important thing to remember is that court reporters try to run their time the best they can in order to get their work out. There are a lot of freelance reporters because court reporters do not have extra time.

Senator Conover then asked Mr. Nieboer how the report arrived at an increase in the maximum salary of 52%.

Mr. Nieboer said they should have requested a larger increase last session. If they had, they would not have had to increase it nearly as much this time.

Christine Lively of the Montana Shorthand Reporters Association wanted to add that the maximum salary would be received by very few reporters. She said it would be more likely that they would, in the first year, receive a 7% increase from their present salary and then more later.

Senator McCallum asked Mr. Nieboer if the folio was 100 words.

Mr. Nieboer said yes, that it has always been considered 100 words.

Senator McCallum then asked Mr. Nieboer if he had an office in his courthouse and does the county furnish him a secretary.

Mr. Nieboer said he did have an office but he was not furnished a secretary. He said the judge has one but he does not.

Senator McCallum asked if Mr. Nieboer was allowed to be the judge's secretary.

Mr. Nieboer said he could to a certain degree when it pertained to court orders, such as having the secretary give him a certain file. She does not do any typing for him, it is for a court order. Any other typing he must hire someone to do.

Senator O'Hara asked what Mr. Nieboer pays his secretary for 100 words, and what does the reporter receive for the

Mr. Nieboer said the individual reporters vary in what they pay to the secretaries. He said it is usually between 60 to 75 cents per page. He pays his secretary 60 cents per page. The reporter gets \$1.60 per page on a transcript appeal.

There were no further questions from the committee. Chairman McCallum said the committee would act on the bill at the executive session and would like to see the companion Senate bill come in before they act on this one.

Senator McCallum then turned the hearing over to Vice Chairman O'Hara as Senator McCallum was the sponsor of Senate Bill No. 115.

CONSIDERATION OF SENATE BILL NO. 115: Senator McCallum, chief sponsor of the bill, said this bill came about when the garbage district was formed in his area. Everyone was told the fee would be \$18 per year for residents and double that for commercial business. They never heard, until the taxes came out, that the fee for residences was \$28 and \$56 for commercial property. If they had come out and told the people they had to pay that much it probably would have been okay; but the way they went about it was underhanded. He introduced this bill so the people would know what their fees were going to be.

There being no further proponents of the bill, Senator O'Hara called for opponents.

Peter M. Frazier of the City-County Health Department in Great Falls spoke against Senate Bill No. 115 and submitted

Senator Van Valkenburg asked about the sheriffs' increment being decreased from \$5,000 to \$2,000.

Senator McCallum said after last session they thought the sheriffs were getting \$2,000 above base. The Attorney General ruled they could only receive \$1,200 because that was a 7% increase.

Sheriff O'Reilly said they already had the \$1,200 but never got the additional \$800.

Senator Hammond said he does not like the \$400 for superintendent. Many counties are consolidating that office.

Senator Van Valkenburg said that is the law, we are not changing that any. The sheriffs' salary is the one that concerns him. He is worried about the deputies. He is afraid we will still have the 90% figure locking them in.

Senator McCallum said he was not arguing that but this bill is for elected officials.

Senator Van Valkenburg said if you don't raise the sheriffs' salary, the deputies will be locked in at the 90% level.

Senator Hammond said in Malta the sheriff will get a raise of \$6,000. He is happy with what it will do in Phillips, Blaine and Valley Counties.

Senator Hammond moved we accept the formula as we amended here tonight.

The motion passed unanimously, Senators Ochsner and O'Hara were excused.

DISPOSITION OF SENATE BILL NO. 84: Senator Van Valkenburg said the Supreme Court came out with an order in December stating the number of copies they require for transcripts on appeal will be reduced. The folio rate has been based on what they would receive for each copy. They will be taking a cut in pay. Senator O'Hara suggested we give them what would be a token increase to 10 cents per folio. As far as their salary, give them a 7% increase.

Senator Hammond said he would rather go for the salary increase than the folio increase.

Senator McCallum said they are currently receiving a minimum of \$12,500 and a maximum of \$18,000. They want to raise that to a \$16,000 minimum and a \$27,500 maximum.

Senator Thomas suggested a minimum of \$14,000 and maximum of \$20,000.

Senator Van Valkenburg suggested a 10% increase to make up for the folio then.

Senator Hammond said if we raise it by \$2,000 on each end the judge would have room to work with it.

Senator Thomas moved the minimum be raised to \$14,000 and the maximum be raised to \$20,000. The motion carried unanimously.

Senator Thomas said on page 2, line 5, we are striking travel moved we put travel back in for necessary travel expenses. The motion carried unanimously.

Senator Van Valkenburg moved SB84 DO PASS as amended. The motion carried unanimously, Senator O'Hara was excused.

DISPOSITION OF SENATE BILL NO. 121: Senator Van Valkenburg said the filing fee is what he is really complaining about. He is not sure what else they are doing here. He made a motion to reduce the \$40 figure on page 1, lines 14 and 15, to \$25.

Senator Hammond said he does not go for the bill at all.

Senator McCallum asked if \$10 was all right on page 1, line 2.

Senator Van Valkenburg said yes.

Senator Van Valkenburg's motion carried with all but Senator Hammond agreeing and Senator O'Hara being excused.

Senator Hammond moved SB121 DO NOT PASS. The motion carried all but Senator Thomas voting aye and Senator O'Hara being excused.

DISPOSITION OF SENATE BILL NO. 175: Senator Van Valkenburg moved to amend SB175 by striking 17 on line 16 and inserting cents. The amendments passed unanimously.

Senator Van Valkenburg moved SB175 DO PASS as amended. The motion carried unanimously, Senator O'Hara was excused.

DISPOSITION OF SENATE BILL NO. 177: The motion was made that the word "shall" on page 1, line 23 be changed to "may". Also on page 4, line 16 to raise \$25,000 to \$40,000.

Senator Hammond moved DO PASS as amended.

Senator Ochsner moved SB177 DO NOT PASS.

Senator Hammond withdrew his motion.

Senator Thomas thought the sheriff acting as county rural fire chief was a good idea.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/18/81 Senate Bill No. 84 Time 7:30

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	Excused	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved SB84 NO
PASS as amended.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 18

19.....

PRESIDENT

MR.

LOCAL GOVERNMENT

We, your committee on.....

SENATE

84

having had under consideration Bill No.

SENATE

84

Respectfully report as follows: That.....
be amended as follows:

1. Title, lines 5 and 6.

Following: "CLARIFY"

Strike: "THE PAYABLE EXPENSES AND"

2. Page 1, line 13.

Following: "\$12,500"

Strike: "\$16,000"

Insert: "\$14,000"

Following: "\$10,000"

Strike: "\$27,500"

Insert: "\$20,000"

3. Page 2, line 5.

Following: "travel"

Insert: "travel"

And, as so amended,
DO PASS

J.C.

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 14, 1981

The Local Government Committee met Saturday, March 14, at 7:00 a.m. in Room 103 of the Capitol. The chairman called the meeting to order and asked the secretary to call the roll. All committee members were present with the exception of Rep. Vinger who was excused and Reps. Hurwitz, Hannah, Sales and Waldron, who were absent. Staff Researcher, Lee Heiman, also attended the meeting.

CHAIRMAN BERTELSEN introduced Senator Bob Brown, sponsor of SENATE BILL 84.

SENATOR BROWN said this is an act to increase the salary of District Court reporters. You can see on line 13, page 1, that as introduced, the bill was to increase the lower base salary from \$12,500 to \$16,000, but it was changed from the proposed \$16,000 to a lower base of \$14,000 but no more than \$20,000. The bill was amended down but the salary still went up. There are several court reporters here this morning. They hold a responsible job in our society and will present their testimony. Jim Hathaway from Miles City will explain their duties and reasons why this bill should receive our consideration.

JIM HATHAWAY said he is the court reporter in Miles City. I work for Judge Martin and I'm here in support of SB 84. I would like to give you a summary of court reporters. There are approximately 32 court reporters in the state of Montana. We are paid by the counties that we serve. I work for the 16th District which comprises 7 counties, and I'm paid by the 7 counties in proportion to the cases filed the previous year. Currently, court reporters are paid a minimum of \$12,500 and a maximum of \$18,000. That figure is set by the judge you work for. Mr. Hathaway gave a history of the salaries of court reporters. The 1975 legislature raised the court reporter's salary to a maximum of \$16,000. In the 1977 session the court reporters wanted to introduce a bill to increase their salary to offset inflation. At that time we were informed by the Supreme Court that the court reporters would be taken out of the legislature and put under the Supreme Court. The judges would then fix our salary. This did not happen, so we received no salary increase at all. In 1979 the court reporters introduced a bill in the House which carried quite well, which was what you might call a catch-up bill. The bill was to bring our salary up to what would be a competitive salary with other states. The bill was introduced at \$25,000. It passed the House and went over to the Senate. They amended it to the \$18,000 maximum, which we are currently paid. Therefore, you'll see that since 1975

we've received a \$2,000 pay raise over a period of six years, which amounts to about a 2% cost-of-living per year. As Senator Brown mentioned, SB 84 was first introduced at a minimum of \$16,000 and a maximum of \$27,500. This again was a bill introduced to bring the Montana reporters in line with what some of the other states pay. Montana is ranked about 45th in the United States as far as pay for court reporters.

Currently the status of SB 84 is a minimum of \$14,000 and a maximum of \$20,000. This again is another \$2,000 pay adjustment which is a little over the 5% cost-of-living per year. We all know that the cost of living increase was well over 20% for the years 1979 and 1980. The court reporters would like this committee to consider the following amendment. We'd like to see the bill amended to read a minimum of \$17,000 with a maximum of \$22,000. This would put us closer in line with what some of the other state reporters receive. We would like to have a 7% cost-of-living raise in the future. Federal reporters in Montana are paid \$27,900. On line 14, following "no other compensation except as provided in 3-5-604," we would like to insert the following amendment: "a court shall on or before July 1, 1982, and on or before July 1, of each year thereafter, adjust and fix the salary of a reporter for a cost-of-living increase by adding to his annual salary on July 1 an increment of not more than 70% of the last previous calendar year's consumer price index." It goes on and I'll leave this amendment with the chairman.

If the cost of living in 1981 is a 10% cost-of-living, this would give us a 7% cost-of-living where the District Judge could allow us that amount.

In closing, I can't impress upon you enough that Montana is at the bottom of the list. We are not attracting competent court reporters to replace the ones that are leaving. Of the 32 court reporters in Montana, there are 10 or 12 who could retire today or will be eligible to retire in the next five years. I don't know how we will replace these people with the salary we get now. They come from Billings, Missoula, Kalispell and so on.

CHAIRMAN BERTELSEN asked if there were further proponents. As there were none, he called for opponents.

OPPONENTS TO SB 84

REP. PISTORIA said if the court reporters hadn't asked for this amendment, he wouldn't speak against the bill. But he feels he could have been responsible for the Senate committee adopting this amendment. In the 1979 legislature the court reporters had HB 442 for salary increases in the House Administration Committee of which he was a member. He was an ardent

supporter for their increase and the salary was set at the minimum of \$12,500 to \$18,000 for the maximum. Since that session I have changed my mind. I didn't know that they were receiving money from another source and I wouldn't have given them a raise. Now in SB 84 they ask for an increase from \$12,500 to \$16,000 or a maximum of \$27,500. I think that is outrageous.

He went on to discuss the amounts the reporters are paid per folio and per page. The folio is not explained in the law. It is composed of about 100 words per folio or about 300 words per page. By having two salaries they make more than most district judges. I'll prove this. They have a real thing going for themselves which I call a monopoly, a closed corporation. Besides receiving a yearly salary, they are provided an office space, a desk, chair, filing cabinets, telephone, typewriters and some stationery. Besides taking testimony for their district judges on taxpayers' expense, they take depositions and testimonies for other attorneys and in doing this are working for the county, but they are paid by the citizen in many court cases. They then type up these depositions in their offices at taxpayers' expense.

After the 1979 session I received many telephone calls from reporters in the area who wanted to take depositions from attorneys. The court reporters kept them out. For my case, they charged me \$1,345, which involves folio items. One girl was paid \$8,004 for a transcript of a murder case and that was done mostly on taxpayers' money. Something should be done to correct the law as they do get two salaries.

CHAIRMAN BERTELSEN asked if there were any further opponents. There were none, and he asked Senator Brown if he'd like to close. Senator Brown asked that the closing time be given to Mr. Hathaway.

JIM HATHAWAY said in rebuttal to Mr. Pistoria's comments, he'd be brief. First of all, he mentioned the appeals and his own case in district court. The constitution provides that anyone who wants to sue someone else has to go into district court. That is the judicial process. If there was no such thing as an appeal, we wouldn't need a Supreme Court and a lot of the judicial officers. That's what the Supreme Court is for, the right to review from the district court level. Just like the JP has a right in a case, whether it be a traffic ticket or something else, you have a right to appeal from the district court or all the way to the Supreme Court. The statutes covering appeals will be covered by my colleague, Ione Daniels, from Bozeman, but I want to touch on it. There is not a court reporter in the State that wants to do an appeal. I don't. I'd just as soon not have them and I thank the Lord when my judge makes the right decision and I don't have them. They involve a lot of work. We must provide several copies to the

Supreme court and it is a real pain to get out an appeal. But it is part of our job.

As far as depositions, a deposition is taken for two reasons. One is to save the testimony of a witness that may pass away prior to the time of the trial. We have cases in my area that were filed in 1975 and they might not come to trial before 1981 or 1982. Lawyers might, in such a case, take a deposition of an elderly witness. In that six year period he may die, but his testimony is on record and can be presented to the jury whenever the case goes to trial. It is true that depositions are taken at court time, but the purpose of the court reporter is to serve the bar and the bench and that is all. That is what we are trying to do. Depositions literally save the county taxpayers thousands of dollars. Based on depositions, the attorneys make a motion to the court which is called a summary judgment. The court may rule in favor of that motion. It is taken up on appeal to the Supreme Court. The Supreme Court may uphold the district court and the case is over; there is no trial. And that motion for summary judgment is strictly on discovery work done by the attorneys of record in support of their motion for the summary judgment, which means the case is closed based on the law. That is the purpose of taking depositions.

Most of my work in depositions and appeals is done in the evening at home. If you sit in court one week, eight hours a day, it will take you three hours to transcribe for every hour in court. The judge doesn't say, "let's work this week taping this trial and then the next three weeks dictate." It doesn't work that way. The judge doesn't stop everything so you can catch up on your transcripts.

QUESTIONS FROM COMMITTEE MEMBERS

REP. ANDREASON said he has several questions for Mr. Hathaway. We are talking about the two sources of salary for the court reporter. Do you have any figures from those two sources? What is the average salary of the court reporter?

JIM HATHAWAY said he can't give a ballpark figure. The same question was asked at the Senate hearing. One of my colleagues from Kalispell indicated he made \$6,000 on appeals last year. In Miles City I made less than \$300 on appeals, so it varies with the court schedule.

REP. ANDREASON asked if you are saying that the annual salary we have listed in SB 84 is plus the \$300?

JIM HATHAWAY said yes, he made \$300 over the annual salary. The reporter at Kalispell made \$6,000. Some reporters make less, some make more, some make nothing.

REP. ANDREASON asked Mr. Hathaway if he had any idea what an average total salary could amount to?

JIM HATHAWAY said he used the above figures as an example. In some districts the reporters may make more, but some make very little.

REP. ANDREASON commented about comparisons with other states. Do you have any information that you can pass out to the committee that would give us that comparison?

JIM HATHAWAY said he has a brochure, but not enough to give one to each committee member. He gave one to the chairman but ran down the list stating that Oregon is paid a minimum of \$15,000 to a maximum of \$24,000; Nebraska \$21,000; Idaho \$24,000; South Dakota \$17,000 to \$20,000; Utah \$18,516 to \$25,236; Minnesota \$22,500 to \$26,500; Federal (Montana) \$28,741; Wyoming \$20,165; North Dakota \$22,800 and Montana \$12,500 to \$18,000. Most of these states are also in the process of trying to get the legislature to increase their salaries.

REP. ANDREASON asked if all states charge per folio and also have an annual salary?

JIM HATHAWAY replied "yes."

REP. MCBRIDE asked Mr. Hathaway the following questions. You mentioned the additional payment you get for appeals. The way the law currently reads, you also receive it for copies of proceedings. Is that right?

JIM HATHAWAY said that is for transcripts on appeals.

REP. MCBRIDE: Do you receive additional pay for any other work?

JIM HATHAWAY said yes, for deposition work. There again if you have a busy court like Missoula, they could make anywhere from \$12,000 to \$16,000, depending on the number of appeals. In eastern Montana I make anywhere from \$6,000 to \$12,000.

REP. MCBRIDE: Are you telling me that if we approve a raise from \$12,500 to \$22,000, you can make an additional \$12,000 in addition to your regular salary?

JIM HATHAWAY said there is that possibility, depending on how many cases are appealed and how many depositions are taken.

REP. MCBRIDE: Are you telling me that you work 11 hours a day every day? You mentioned 8 hours a day in court and then 3 or 4 hours in the evening.

JIM HATHAWAY: I'm not saying I do that every day. I'm saying that I'm in the office usually from 8 to 4:30 working for the judge, or bouncing in and out of court on different types of criminal areas and trials. Any transcripts on appeal I dictate at home at night because my scheduling during day does not permit me to do anything in my office. The only thing I do during my working hours is maybe take a deposition because the attorneys would not want to take depositions in the evening.

REP. MCBRIDE asked Ann Wayrynen if she could give her an idea what types of additional payment she is receiving.

ANN WAYRYNEN, a court reporter in the Second Judicial District in Butte, said she is working on her taxes now, so can give a pretty good idea of my extra compensation. Last year I made a salary of \$18,000 in the court, based on my experience as a court reporter. I also did appeals and depositions amounting to approximately \$26,000. But I want you to realize that this is not pure profit to me. I pay a typist to do my work; anywhere from 50 cents to a dollar a page. I pay to have the copies made on an appeal to the Supreme Court and that is 56 cents a page for 8 copies. So we are looking at a pretty fair amount when you start paying that kind of expenses.

The court supplies me an office and a desk. That is it. I supply my own typewriter, my own stenotype machine, all my stationery, transfer paper, bindings and so forth. I must buy everything out of the money I make from appeals and depositions.

REP. ANDREASON commented to Chairman Bertelsen that he still hasn't found out what the gross reportable taxable income, including the source of two salaries, amounts to.

IONE DANIELS, court reporter from District 2 in Bozeman, said her taxes are also being worked on at this time, so she has some figures for last year. She has been an official court reporter for two years and her basic salary has been \$17,300 a year. But don't forget, that salary begins in July, so for any given year you are splitting that. Last year I didn't make \$18,000 for a base. I made the average of half of \$17,300 and half of \$18,000 for my base. My freelance income for the last year was approximately \$5,000 of which \$3,000 was from depositions and \$2,000 was for appeals. On my freelance income of \$5,000 I have an overhead of 30%. I own a \$1,200 typewriter that I furnish to my transcriber. I own my own stenotype machine which last year cost me \$600. I furnish all the paper and ribbons. If you take my income of \$5,000 and reduce that by 1/3, that is the figure that you may add to my basic salary for my 1980 income, which would have been in an area of \$22,000 to \$23,000. The year

before that I made \$2,000 more than that so you could take that \$2,000 and again apply the 1/3 figure which would give my adjusted gross for 1979, and that is how long as I've been in business.

REP. ANDREASON asked Mr. Hathaway if he would consider a 30% overhead as being typical.

JIM HATHAWAY answered definitely. Deposition work involving court reporters is a sideline business called freelance business. It would be no different than the District Judge running cattle on the side. The problem arises because taking a deposition is so closely related to our normal work. I don't think the legislature when they consider fixing any other salary considers what the people have going on the side. You might take depositions during normal hours, but 90% of the work is done on off hours in the evenings. If you try to remember that, it may help.

REP. DUSSAULT had a question for Jim Hathaway. There is another way which is common for us to look at salary increases and that is on a percentage basis. Very often you hear the figure of 9% through 12%. If you start at the base salary of \$12,500 and go to what is in the bill of \$14,000, that is a 12% increase on the base. If you go to a \$16,000 salary originally in the bill, that is a 28% increase, and if you go to the \$17,000 you are requesting, that is a 36% increase in the base. If you take the maximum, which is \$18,000 which is currently in the statutes and go to \$20,000, that is an \$11% increase; if you go to the \$22,000 that is a 22% increase; and if you go to the \$27,000 you are requesting, that amounts to a 52% increase. I feel this is way out of line.

JIM HATHAWAY said I understand that, but you must remember that is for a two year period. Our last pay raise was in July of 1979. The next raise would not be effective until July of 1981. That is two years.

REP. DUSSAULT commented to Jim Hathaway that if he remembers, she carried the bill for them last session. I know the problems with it and one of them is that the judges are setting salaries and setting them at the maximum. You don't have any place to go. They can set your salaries at different increments each year, but I suspect you are all pushing up against the top regardless of whether you've been in the business two or three years or 10 to 20 years. That is something we can't be responsible for when we set a spread. If your judges intend to set you all at that high level and hold you there for two years, I don't think that is our responsibility.

JIM HATHAWAY said he's getting the maximum salary, but I feel I've earned that for all the years I've been in the business. I feel that any reporter who has been in the business two years has probably recorded all types of cases and is a pretty experienced reporter.

REP. MATSKO said he has been involved in court cases for a number of years. Many times a court reporter is called in, especially when there is a late trial or the trial runs over, a verdict may come at midnight. When a reporter stays over and puts in that overtime, is there any additional salary for that work?

JIM HATHAWAY replied no. I get paid the same whether I put in 20 hours a week or 60 hours a week. There have been times when I've waited up until 2 a.m. to wait for a jury to come back in after being in court all day.

CHAIRMAN BERTELSEN said if there are no further questions, this ends the hearing on SB 84.

SENATE BILL 175 - sponsored by Senator Don Ochsner

SEN. OCHSNER said SB 175 is an act to revise the cost of copies of court proceedings. It is a short bill. There is one change in it. The court reporters have been getting 7 and 1/2 cents per folio. They have asked for 17 cents per folio. It was amended in the Senate to 10 cents. In the past, they had to make 5 copies of each one, and this would be about 3 folios to the page. Now it has been cut down to 3, so they are not getting the total amount they did before. This change will have to be left up to this committee. I'll call on Miss Daniels from Bozeman and the rest of the proponents for this bill.

PROPONENTS FOR SB 175

IONE DANIELS, court reporter from Bozeman, said she will try to keep her remarks short. I feel this is a mysterious bill and that the folio rates are what confuse everyone. It is my goal that when you leave here this morning, you won't have any more questions as to how court reporters do their job and earn their living.

The outcome of SB 175 in the Senate was to raise the folio rate to 10 cents, which means an equivalent of 30 cents per page. This was fine until the Supreme Court decided to cut back the number of copies of transcripts from 6 to 3. If you'd like to look at Exhibit A, you can see the effect of the Supreme Court's order on our transcript rates. At the top you'll see

REP. MATSKO said these three counties are the only counties where the elected officials will not get the same differential as every other county in the state. As a practical matter of fairness, I don't think it is quite right that some of their elected officials, just because of the way things happen, be cut back and not get the same differential as every other county in the state. Regardless of the dollar figures involved, you are talking about fairness.

REP. WALDRON said if you are going to talk about dollars on a comparative basis to other counties, their salaries are going to be similar.

REP. VINGER said after the next election, their salary will be \$14,000, the same as everyone else.

REP. SALES said he doesn't think there is any need to reconsider because actually the officers in those counties are receiving very high salaries in relation to the other counties because their salary has been created based on the evaluation. They have been paid this high salary without any regard to the responsibilities. The valuation part is what is blowing the salary out of proportion, but they don't come out as well in the long run as some of the other counties do. All the counties come out differently but they do get a guarantee of a 7% increase over what they are getting now.

REP. DUSSAULT said she too would resist the motion. Again, remember the intent of this bill is to establish equity among the various counties for the same office. The problem is that in those three counties the salaries are highly inflated as compared to the other counties because of their taxable valuation base because of coal production.

REP. MATSKO said if it was considered by the committee that there would be a flattening in the differential between these various elective offices in these three counties alone and was accepted, and is acceptable to the members of the committee, that is what we're going to have to go along with. I just thought it would be in the interest of fairness to give it a hearing so everybody would know that this is what will happen. I didn't want what happened last session to happen again.

QUESTION: Shall we reconsider our action on Senate Bill 50 for the purpose of an amendment? A roll call vote resulted in the following: Of the 18 committee members now present, 15 voted against reconsidering action; 3 voted to reconsider, namely Reps. Andreason, Gould and Matsko, and Rep. Hurwitz was absent. THE MOTION FAILED.

SENATE BILL 84

CHAIRMAN BERTELSEN asked Rep. Sales if he would like to

present Senate Bill 84, which was also worked on by the subcommittee.

REP. SALES presented Senate Bill 84. This is the bill to increase the salary of District Court Reporters and to clarify the payable expenses and the method of payment of salaries by the counties. We looked at the bill carefully and decided that the increase being allowed the court reporters was actually in line with what we allowed the other county officials. It appeared to be reasonable and we accepted it as the Senate presented it. I move that Senate Bill 84 be concurred in.

CHAIRMAN BERTELSEN asked if it is the recommendation of the subcommittee to approve the bill without any amendments. Is that correct?

REP. SALES said "yes".

REP. SALES said the salary figures out to about a 7½% increase.

REP. HANNAH asked Rep. Sales if the committee discussed the actual work time involved for the court reporters? Can you tell me how many hours they are actually working?

REP. SALES said it depends on which Judge they work for.

REP. HANNAH asked if there was any discussion in regard to the dollar amount per page.

REP. SALES said that is the next bill.

CHAIRMAN BERTELSEN asked if there were further comments on Senate Bill 84. If not, are you ready for the question?

QUESTION: All in favor of CONCURRING IN SENATE BILL 84 say "aye". 14 committee members voted "aye" and the following 4 voted "no". Those opposed were Reps. Azzara, Kessler, McBride and Pistoria. Motion carried and Senate Bill 84 received a BE CONCURRED IN recommendation.

THE CHAIRMAN asked who would like to carry the bill, and Rep. Vinger said he would do so.

SENATE BILL 175 - which would revise the cost of copies of court proceedings.

REP. SALES asked Rep. Dussault to report on the subcommittee meeting.

STANDING COMMITTEE REPORT

REPORT NO. 37, 1931

MR. SPENCER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 84

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE SALARY OF DISTRICT COURT REPORTERS AND TO CLARIFY THE PAYABLE EXPENSES AND THE METHOD OF PAYMENT OF SALARIES BY THE COURTS; AMENDING SECTION 3-5-602, MCA."

Respectfully report as follows: That SENATE Bill No. 84

BE CONCURRED IN

DOLPASS:K